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SUBJECT: ICTR PROSECUTOR ON WORK, TRANSFER OF CASES TO
RWANDA

REF: DAR ES SALAAM 643

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11. (SBU) SUMMARY: International Criminal Tribunal for Rwanda (ICTR) chief prosecutor Hassan Jallow briefed Kigali-based diplomats October 15 on the tribunal's work, anticipated closure in 2010 and unresolved legacy issues. He intends to request transfer of some remaining cases to Rwanda, and indicated that Rwandan authorities will likely ask donors for some assistance in strengthening their capacity to receive them. Post recommends providing USG assistance if possible; these issues are of core interest to Rwanda. END SUMMARY.

12. (U) On October 15, International Criminal Tribunal for Rwandan (ICTR) chief prosecutor Hassan Jallow briefed Kigali-based diplomats on the ICTR's work. Participants included diplomats from the UK, Netherlands, Sweden, Belgium, Germany, Canada, Uganda, Kenya, and the EU, as well as locally-based ICTR staff.

Status Report

13. (SBU) Jallow expected trials of all current detainees to continue through 2010, with appeals lasting through 2012. Of 93 indictees, he said, the ICTR has arrested all but 11. The ICTR completed 45 cases, with six acquittals and 39 convictions; 23 more are now on trial, although 15 of these are simply awaiting judgment. Six more individuals are waiting for their trials to start. The trial of (FNU) Karemera, delayed because the defendant was sick, will begin in November. The ICTR, he added, also recently transferred two cases to France—its first transfers ever.

Possible Transfers to Rwanda?

14. (SBU) Regarding the 11 remaining fugitives, Jallow said the ICTR expected more arrests before the end of 2009. Three would face trial at ICTR in Arusha; Jallow planned to ask ICTR judges in late 2009 or early 2010 to transfer the remaining eight cases to other jurisdictions, including Rwanda. In order to receive cases from abroad, he explained, the Government of Rwanda (GOR) already abolished solitary confinement for cases transferred from abroad, has restructured its witness protection program so that judges rather than prosecutors run it, and adopted laws enabling the use of testimony by videolink. He commented that in Rwanda, witnesses for the prosecution, not the defense, suffer the most harassment. The GOR still lacked the capacity to implement these reforms, however, and Jallow understood that Rwanda's Prosecutor General intends to ask for donor assistance with training, equipment, technical advice, as

well as two vehicles and possibly two safe houses. (Note: According to local press, Jallow announced, after a meeting with Rwanda's prosecutor general, his intention to ask ICTR judges to transfer cases to Rwanda. End Note.)

Legacy Issues Unresolved

15. (SBU) Jallow noted there were several outstanding issues related to ICTR's closure in future. The location, management of, and access to ICTR-related archives were all questions for the UNSC. ICTR itself preferred that the archives remain in the region to allow for easier access by African users, including national police forces, and noted that some documents would need to remain confidential for some time, perhaps 20-30 years. Another key question was how to assemble judges and other legal personnel on a case-by-case basis if needed after the ICTR closed.

No Remorse
QNo Remorse

16. (SBU) When asked about the status of reconciliation efforts in Rwanda, Jallow said the GOR's National Unity and Reconciliation Council had informed him there were still many problems, including intolerance in schools propagated by parents and teachers. "We should remain concerned for a long time," he emphasized, adding that intimidation of witnesses-especially prosecution witnesses-was a recurring problem, particularly in the areas around Ruhengeri, Gisenyi and Gitarama. When the ICTR publishes its witness lists in advance of trials, Jallow said it often finds that its primary witnesses become the subject of gacaca trials. (Note: Gacaca is a nationwide system of local courts intended to foster reconciliation as well as mete out justice for genocide-related crimes, and has dealt with over 1.6m

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cases since its inception in 2006. End Note.)

Prosecution of Alleged RPF War Crimes

17. (SBU) Responding to a question about prosecuting members of the Rwanda Patriotic Front (RPF) for alleged killings of civilians during the 1994 genocide, Jallow said such allegations do fall within the ICTR's jurisdiction and that "there is a unit working on this." The ICTR did not have authority to investigate the downing of the presidential aircraft in 1994, just before the genocide began, however, and the GOR in 2008 did prosecute and convict some RPF officers of war crimes committed at Kabgayi. (Note: The GOR convicted two lower-level officers, acquitting two of their higher-ranking colleagues. End Note.) Jallow strongly disagreed with critics who charged that if the ICTR failed to prosecute RPF members, it would amount to "victor's justice," saying that the most important thing was that criminals be held accountable somewhere. The ICTR already had to "let go" of many cases against possible genocidaires as part of its completion strategy, and its primary focus was the genocide, not war crimes.

18. (SBU) COMMENT: If and when the GOR does request assistance, post believes it would be in the USG's interest to consider the request favorably, if funds or other resources are available. ICTR-related issues are of great importance to the GOR because they impact reconciliation and justice--issues still very much alive throughout Rwandan society. The question of Rwanda's suitability to receive case transfers, likewise touches on an issue of critical importance to the GOR, good governance, which is at the heart of its leaders' vision for the future of this country. END COMMENT.
CASPER